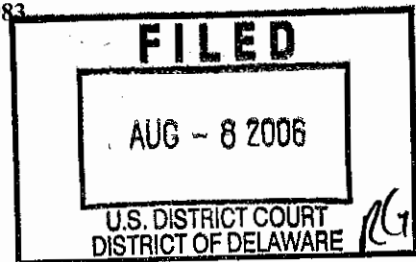


**ORIGINAL**

(Rev. 5/05)

**FORM TO BE USED BY A PRISONER IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §1983**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**



(1) Dale A. Guilfoil 166308  
(Name of Plaintiff) (Inmate Number)  
Delaware Correctional Center  
1181 Paddock Road Smyrna, DE 19977  
(Complete Address with zip code)

(2) \_\_\_\_\_  
(Name of Plaintiff) (Inmate Number)

\_\_\_\_\_  
(Complete Address with zip code)

(Each named party must be listed, and all names  
must be printed or typed. Use additional sheets if needed)

vs.

(1) Thomas Carroll  
(2) David Pierce  
(3) James Scarborough  
(Names of Defendants)  
see Attachment A

(Each named party must be listed, and all names  
must be printed or typed. Use additional sheets if needed)

- 0 6 - 4 9 3 -

(Case Number)  
(to be assigned by U.S. District Court)

**CIVIL COMPLAINT**

☒ Jury Trial Requested

**I. PREVIOUS LAWSUITS**

- A. If you have filed any other lawsuits in federal court while a prisoner, please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

Civil Rights Act, 42 U.S.C. §1983 filed Ohio Northern  
District, approx 1991-92 dismissed with prejudice,  
no appeal taken

Attachment A.

Conts Names Of Defendants.

(4) Karl Hazzard  
Defendants

**II. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

In order to proceed in federal court, you must fully exhaust any available administrative remedies as to each ground on which you request action.

- A. Is there a prisoner grievance procedure available at your present institution? ☒ Yes •• No
- B. Have you fully exhausted your available administrative remedies regarding each of your present claims? ☒ Yes •• No
- C. If your answer to "B" is Yes:
1. What steps did you take? Filed grievances, wrote Mgr. Scarborough  
Deputy Warden Pierce and spoke to Capt. Hazzard
  2. What was the result? Grievance returned as ungrievable - told  
to write Mgr. Scarborough no action taken  
no response to date.
- D. If your answer to "B" is No, explain why not: N/A

**III. DEFENDANTS** (in order listed on the caption)

- (1) Name of first defendant: Thomas Carroll  
Employed as Warden at Delaware Correctional Center  
Mailing address with zip code: 1181 Paddock Road  
Smyrna, DE 19977
- (2) Name of second defendant: David Pierce  
Employed as Deputy Warden I at Delaware Correctional Center  
Mailing address with zip code: 1181 Paddock Road  
Smyrna, DE 19977
- (3) Name of third defendant: James Scarborough  
Employed as Major at Delaware Correctional Center  
Mailing address with zip code: 1181 Paddock Road  
Smyrna, DE 19977
- (List any additional defendants, their employment, and addresses with zip codes, on extra sheets if necessary)

Cont. See Attachment B.

Attachment B.

III. Defendants

(i) Name of fourth defendant: Karl Hazzard

Employed as Captain At Delaware Correctional Center  
mailing address with zip code: 1181 Paddock Rd.  
Smyrna De 19977

## IV. STATEMENT OF CLAIM

(State as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach no more than three extra sheets of paper if necessary.)

1. On approx. Feb. 14, 2006 plaintiff was moved to the housing unit known as W-1 and assigned to B-tier, Cell 4, top bunk. The height of the top bunk is approx. 54 1/4" off the floor with no ladder or steps. At this time Plaintiff informed Sgt. on Shift, 2<sup>nd</sup> Shift, that he had a medical condition and had a problem climbing and had doctor's memo's for medical bottom bunk. Plaintiff was told to see 1<sup>st</sup> Shift the next day. Plaintiff began sleeping on the floor at this time because of his back injury.  
Exhibit A
2. On approx Feb. 15, 2006 plaintiff filed a Grievance form and medical Grievance concerning the assignment to a top bunk. Grievances were received back on approx. March 8, 2006, stating plaintiff needed to see  
Cont. on Attachment.

## V. RELIEF

(State briefly exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. Delaware Corr. Center to honor medical memo's and assign plaintiff to a bottom bunk
2. Award monetary damages of \$1.00 or more.

## IV. STATEMENT OF CLAIM cont..

medical for new memo's and medical would send memo's to Scarborough for approval, which could constitute deliberate indifference. Exhibit B #2

3. On approx. Feb. 20, 2006 plaintiff was seen by the Institutional doctor and a new memo for a medical bottom bunk was ordered by the doctor. According to medical staff copies of the memo were faxed to the offices for J. Scarborough and Capt. Hazzard. Exhibit C
4. On approx. Feb. 28, 2006 plaintiff spoke to Capt. Hazzard outside of the W-I housing Unit. At that time plaintiff was told that if he got a copy of the medical memo ~~for~~ the medical bottom bunk then plaintiff would be moved to a bottom bunk.
5. On approx. March 6, 2006 Corr. Officer Spriggs, 2<sup>nd</sup> shift told plaintiff he shouldn't be sleeping on the floor and told plaintiff she faxed a copy of the memo to Capt. Hazzard.
6. On approx. April 9, 2006 plaintiff wrote a letter to Scarborough, plaintiff still to date have not received a response back.

## IV. STATEMENT OF CLAIM Cont.

7. On approx. April 24, 2006 plaintiff once again filed a Grievance. Plaintiff received Grievance back on approx. 6-7-06 stating Complaint was not a grievable matter and was told he could write to Scarborough. Exhibit D
8. On approx. May 20, 2006 plaintiff wrote to Deputy Warden Pierce regarding while P.C.C. staff would not honor a medical memo. On approx. June 24, 2006 a letter was received back from his office stating the plaintiff's letter was forwarded to Director of Nursing Eller for her investigation and action. Exhibits E1-2
9. On approx. June 16, 2006 Plaintiff was seen by medical dept. to renew medication for back pain. Plaintiff is seen approx. every 30 days. Plaintiff was told by nurse Jane Dee that memo's were once faxed to Scarborough and Capt. Hazzard.
10. On approx July 11, 2006 plaintiff recieved a letter dated July 7, 2006 from Scott S. Altman, Correctional Medical Service at the Delaware Regional office in Dover, Mr. Altman

IV. STATEMENT OF CLAIM *Cont.*

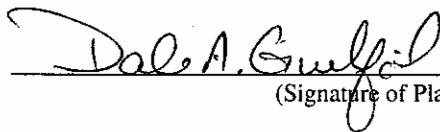
- . Said he verified the memos presence but that it was the Corrections Staff who determine the housing and Chilly living need and that plaintiff should address the matter to the C.O.s. which constitutes a deliberate indifference. Exhibit F
11. Plaintiff had spoken to Sgt. Bailey, Sgt in Charge of W-1 housing unit. Sgt Bailey informed plaintiff the medical memo for bottom bunk which had was no good because it is only signed by the doctor. And only Scarborough can assign medical bunks, which Scarborough hasn't signed any memo. Scarborough being a P.O.C. employee, which constitutes a deliberate indifference.
12. Plaintiff also spoke to Lt. Watkins and Officer Givens, 2<sup>nd</sup> Shift. He was informed that the memos were sent "up front" but he could not be moved.



3. Award Plaintiff punitive damages for pain he's endured in the amount of \$30,000.00. Also compensatory damages.
4. Department of Correction to be responsible for any medical expenses arising from their neglect after
5. plaintiff's release from custody.
5. Be awarded punitive damages for being denied proper medical care. Also compensatory damages.
6. Defendants to pay filing fees and any other monies involved, including attorney fee's which may incur in future.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 2<sup>nd</sup> day of August, 2006.

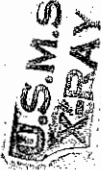
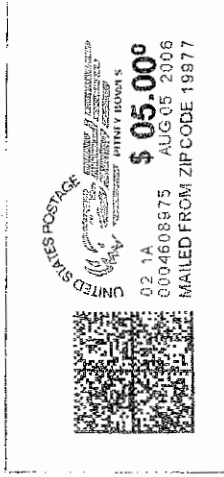


(Signature of Plaintiff 1)

(Signature of Plaintiff 2)

(Signature of Plaintiff 3)

J/M Dale Guifford  
SBI# 166308 UNIT W-1  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977



Clerk  
U.S. District Court, Lock box 18  
844 N. King Street  
Wilm. DE  
19801

**ORIGINAL****SPECIAL NEEDS REFERRAL FORM**

06-493

**SPECIAL NEEDS INMATES** ☐ *Inmates who require close medical supervision and/or multi disciplinary care. Included among special needs inmates: chronically ill; inmates with serious communicable diseases; physically disabled; seriously mentally ill; pregnant; frail; elderly or terminally ill. Special needs considerations may be temporary (inmate needs crutches) or permanent (inmate has an artificial limb).*

Date/2-12-05

Inmate Name

Guilford, Dale

Inmate Number:

166308

Special Need Identified by

Hessinger

during:

exam

Special Needs Treatment Plan Initiated:

☒ Yes☐ No

Medical

Need:

Bottom bunk

Expected Duration:

12 MO.

Housing Need:

Expected Duration:

Mental Health or Psychiatric Need:

Expected Duration:

Has durable medical equipment issued to the inmate: ☐ No☐ Yes

If yes, what equipment was issued:

Was the inmate given instruction on the safe use of the equipment?

☐ Yes☐ No

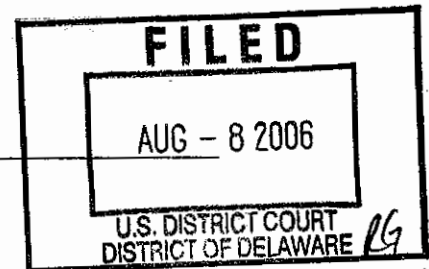
If no,

why?

**Instructions:**

1. Complete the Special Needs Referral form and route to the Health Service Administrator.

Exhibit A



E-mail about built  
March 6 2

Received Date 8-8-06

**ORIGINAL**

FORM #584

**GRIEVANCE FORM**FACILITY: DCCDATE: 2-15-06 06 493GRIEVANT'S NAME: Dale GuilfoilSBI#: 166308CASE#: 24180TIME OF INCIDENT: 2-14-06 on goingHOUSING UNIT: W-B-4

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

Being forced to cause person injury to myself by being forced to climb into a top bunk when I have a back injury.

I have had medical bottom bunks in the system until I was moved to W. At this time I was assigned a top bunk and told by Sgt Bailey I was never assigned medical bottom bunk from medical. When I arrived here on Jan 11, 2006 the nurse that interviewed me in Receiving informed the one assigning bunks that I would need a medical bottom bunk. Now I am being told by Sgt Bailey that medical can not assign medical bottom bunks and that only the Deputy Warden can assign medical bunks. I have memos from SVOP and CVOP for medical bottom bunks and was told by the nurse they would carry over here at D.C.S.

ACTION REQUESTED BY GRIEVANT:

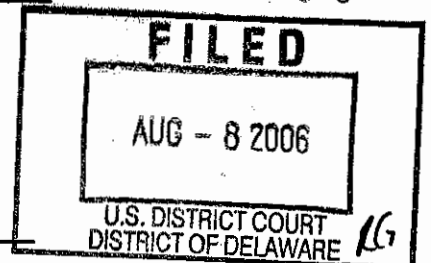
to be assigned bottom bunk to prevent further injury to my lower back injury.

GRIEVANT'S SIGNATURE: Dale GuilfoilDATE: 2-15-06 06 493WAS AN INFORMAL RESOLUTION ACCEPTED?        (YES)        (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_



IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE  
GRIEVANT

RECEIVED

FEB 21 2006

April '97 REV

Inmate Grievance Office

Exhibit B-1

## Instructions for Submitting a Regular Grievance

Inmates are required, per DOC Procedure 4.4 [Inmate Grievance Procedure] to attempt to resolve complaints prior to filing a regular grievance. Grievances are to be submitted within seven(7) days from the date of the occurrence or incident or within seven days after the inmate became aware of the incident. The grievance is to be placed in the grievance box located in each housing unit.

Only one issue per grievance form will be addressed. If the grievance is submitted on a weekend or a holiday, it will be received during the next working day.

## Return of Unprocessed Grievance

Intake Action: This Grievance Form is being returned to the inmate under the provisions outlined in DOC Procedure 4.4 "Inmate Grievance Procedure" for the following reason(s):

\_\_\_\_\_ **Vulgar/Abusive or Threatening Language.** The language that is unacceptable has been highlighted. The grievance may be resubmitted omitting this language.

\_\_\_\_\_ **Non-Grievable.** This issue has been defined as non-grievable in accordance with DOC Policy 4.4. These procedures have their own appeal process that must be followed. \_\_\_\_\_ Disciplinary Action \_\_\_\_\_ Parole Decision  
\_\_\_\_\_ Classification Action

✓ **Request.** Requests are not processed through the grievance procedure. Please correspond with the appropriate office to secure the information that is requested.

\_\_\_\_\_ **Duplicate Grievance(s).** This issue has been addressed previously in Grievance # \_\_\_\_\_.

\_\_\_\_\_ **Original Grievances must be submitted to the Inmate Grievance Chairperson.** Photocopies are not accepted.

\_\_\_\_\_ **Inquiry on behalf of other inmates.** Inmates cannot submit grievances for other inmates.

\_\_\_\_\_ **Expired filing period.** Grievance exceeds seven(7) days from date of occurrence.

*You need to submit a sick call slip if medical feels you need a bottom bunk, they will send a memo to*

*[Signature]*  
Inmate Grievance Chairperson

FEB 22 2006

\_\_\_\_\_  
Date

*the Security Chief for approval*



**ORIGINAL**

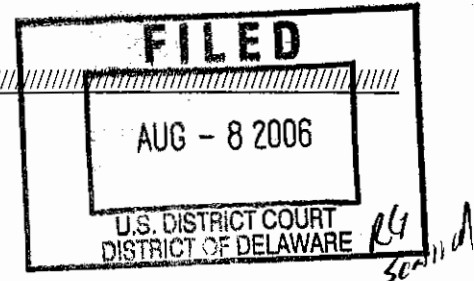
FORM #585

**DUPLICATE**MEDICAL GRIEVANCEFACILITY: D.C.C.DATE SUBMITTED: 2-15-06INMATE'S NAME: Dale GuilfoilSBI#: 166308HOUSING UNIT: W-B-4

CASE #:

SECTION #1DATE & TIME OF MEDICAL INCIDENT: 7pm, 2-14-06 on going

TYPE OF MEDICAL PROBLEM:



When arriving at D.C.C. I informed the nurse I had a lower back injury and have had medical Bottom bunk orders by Doctors from SVOP and CVOP. The nurse said she called and ordered medical Bottom bunk for me here at D.C.C. Now that I am in W I am told by Sgt Bailey that the nurse lied to me. I never had a medical bottom bunk request from medical and that I should have been <sup>seen</sup> by a doctor here at DCC and a medical bottom bunk memo should have been requested from the Deputy Warden.

GRIEVANT'S SIGNATURE: Dale GuilfoilDATE: 2-15-06

ACTION REQUESTED BY GRIEVANT: to be seen by Doctor and have a bottom bunk memo requested to prevent further injury to lower back.

DATE RECEIVED BY MEDICAL UNIT: \_\_\_\_\_

**RECEIVED****FEB 22 2006**

**NOTE: EMERGENCY MEDICAL CONDITIONS WILL TAKE PRIORITY. OTHERWISE, ~~Inmate~~ Grievance Office GRIEVANCES WILL BE ADDRESSED AT THE WEEKLY MEDICAL COMMITTEE MEETING.**

Exhibit B-2

MEDICAL GRIEVANCE FORM #585

Page two

JAN 10 2007

SECTION #2

IF GRIEVANT DOES NOT AGREE TO THE DECISION OF THE MEDICAL GRIEVANCE COMMITTEE THEY MUST RESPOND , IN WRITTING , WITHIN TWO DAYS OF THE RECEIPT OF THE DECISION. SPACE FOR AN APPEAL HAS BEEN PROVIDED ON THIS FORM IN SECTION #3.

RESPONSE BY M.G.C.: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE RECEIVED BY GRIEVANT: \_\_\_\_\_ GRIEVANT SIGNATURE: \_\_\_\_\_

DOES GRIEVANT ACCEPT M.G.C. DECISION? \_\_\_\_\_ (YES) \_\_\_\_\_ (NO)

=====

h8

SECTION #3

IF YOU WISH TO APPEAL PLEASE USE THE SPACE PROVIDED BELOW: TO EXPLAIN WHY:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

GRIEVANT'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

ORIGINAL: INSTITUTION FILE

COPY: GRIEVANT

ORIGINAL

MEMORANDUM

DATE	3-20-06	RE	Mailpile
TO	W Bldg		Dale
MESSAGE	Bottom bunk, L2 - MCI Dx - lumbar disc disease, radiculopathy both legs		
#00166308			
SIGNED	[Signature]		

06-493

06-493

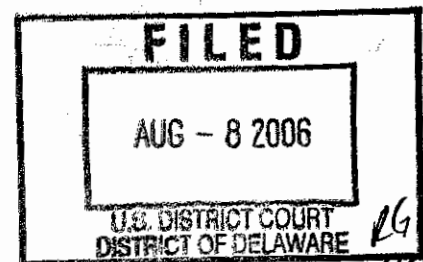


Exhibit C



**ORIGINAL**

FORM #584

**GRIEVANCE FORM**

FACILITY: D.C.C. DATE: 4-24-06  
 GRIEVANT'S NAME: Dale Guithail SBI#: 166308  
 CASE#: 39143 TIME OF INCIDENT: On going for 2 1/2 months  
 HOUSING UNIT: W-1-B-4-T

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

D.C.C. Refusing to honor medical memos.  
Capt. Hazzard, Sgt Bailey, Lt Watkins, Givens and  
Sgt Fusch all say the medical memos I have  
from medical are no good because only the  
Medical Doctor signed them. Therefore  
can not be honored by staff.  
I have been sleeping on the floor for  
approx. 2 1/2 mos. I am unable to climb in the  
top bunk because of back injury.

ACTION REQUESTED BY GRIEVANT: To be switched bunk assignment  
with Celly. For D.C.C. to honor medical memos.

GRIEVANT'S SIGNATURE: Dale Guithail

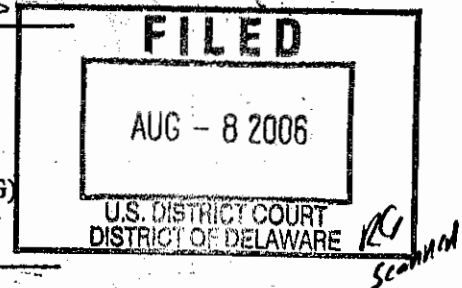
DATE: 4-24-06

WAS AN INFORMAL RESOLUTION ACCEPTED? ☐ (YES) ☐ (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_



IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE  
 GRIEVANT

RECEIVED

APR 27 2006

April '97 REV

Inmate Grievance Office

Exhibit D

## Instructions for Submitting a Regular Grievance

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Only one issue per grievance form will be addressed. If the grievance is submitted on a weekend or a holiday, it will be received during the next working day.

## Return of Unprocessed Grievance

Intake Action: This Grievance Form is being returned to the inmate under the provisions outlined in DOC Procedure 4.4 "Inmate Grievance Procedure" for the following reason(s):

       **Vulgar/Abusive or Threatening Language.** The language that is unacceptable has been highlighted. The grievance may be resubmitted omitting this language.

       **Non-Grievable.** This issue has been defined as non-grievable in accordance with DOC Policy 4.4. These procedures have their own appeal process that must be followed.        Disciplinary Action        Parole Decision  
       Classification Action

✓ **Request.** Requests are not processed through the grievance procedure. Please correspond with the appropriate office to secure the information that is requested.

       **Duplicate Grievance(s).** This issue has been addressed previously in Grievance #                     .

       **Original Grievances must be submitted to the Inmate Grievance Chairperson.** Photocopies are not accepted.

       **Inquiry on behalf of other inmates.** Inmates cannot submit grievances for other inmates.

       **Expired filing period.** Grievance exceeds seven(7) days from date of occurrence.

*BOTTOM BUNKS ARE ASSIGNED AS THEY BECOME AVAILABLE.*

*MEDICAL CAN ONLY REQUEST AN I/M RECEIVE A BOTTOM BUNK, APPROVAL IS ISSUED BY*

*[Signature]*  
Inmate Grievance Chairperson

*MRS. HOLMAN*

*OR*

*SEABOROUGH*

*5-15-06*  
Date

*HB*

**ORIGINAL**

RECEIVED

MAY 23 2006

DEPUTY WARDEN I

5-20-06

Dole Guilfoil 166308

W-1-B-4-T

06 493-

Mr. Pierce

I hope writing you will help solve a problem I've been having for several months. I have filed a grievance and its been over 3 weeks with no reply.

The problem is I have memos from the medical Dept. signed by the Doctor for a medical bottom bunk but yet I am stuck sleeping on the floor because the D.C.C. staff say the memo is only signed by the Doctor so it is no good. I have memos in my file from every institution I've been in.

I have been trying to get the staff to honor the memo and assign me to the bottom bunk since Feb, 06, but no one can help.

Could you please explain to me why D.C.C. does not honor memos signed by the Doctor's that work here.

06-493- Thank you for your time in this matter

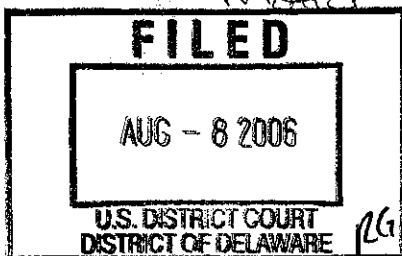


Exhibit E-1

Sincerely,  
Dole Guilfoil

ORIGINAL



STATE OF DELAWARE  
DEPARTMENT OF CORRECTION  
OFFICE OF THE DEPUTY WARDEN  
DELAWARE CORRECTIONAL CENTER  
1181 Paddock Road  
SMYRNA, DELAWARE 19977  
Telephone: (302) 653-9261  
Fax: (302) 659-6668

06 493  
06 493

MEMORANDUM

TO: IM Dale Guilfoil SBI# 166308 W1 B4T  
FROM: Deputy Warden Pierce  
DATE: June 5, 2006  
RE: Bottom Bunk

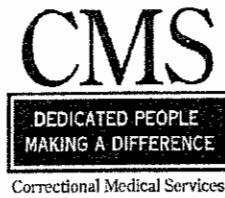
**FILED**  
AUG - 8 2006  
U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
Scanned

I received your letter dated May 20, 2006, regarding a bottom bunk and have forwarded your concerns to Director of Nursing Eller for her investigation and action.

DP/dc  
Attachment  
cc: Director of Nursing Eller  
File

Exhibit E-2

**ORIGINAL**



Dale Guilfoil  
166308 W-1-B-4-T  
1181 Paddock Road  
Smyrna, DE 19977

7 July 2006

Dear Mr. Guilfoil

I have received your letter dated 20 May 2006. I appreciate your patience in letting us deal with this matter.

The memo you reference in your letter is in your records and I have verified it's presence. The issue of the correctional staff honoring a memo is not one that can be addressed by the medical department; the corrections staff is the ones who determine your housing and daily living needs. Please address this matter with the CO's in your housing area. If they should need a second copy of the memo one can be provided to them

Your Partner in Healthcare,

A handwritten signature in black ink, appearing to read "Scott S. Altman".

Scott S. Altman  
Quality Assurance Monitor  
Correctional Medical Services

CC: Warden Thomas Carroll  
Medical Record

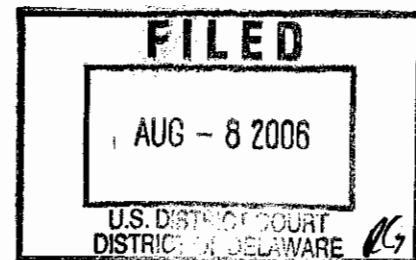


Exhibit F